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COMMISSION ON HUMAN RIGHTS
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Agenda item 8

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Andorra*, Austria, Bulgaria*, Canada, Cape Verde, Chile, Czech Republic, El Salvador, Finland*, France, Germany, Hungary*, Ireland, Italy, Japan, Liechtenstein*, Peru, Portugal*, Romania*, Slovakia*, Sweden* and Switzerland*: draft resolution

1998/... Right to freedom of opinion and expression

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights, which affirms the right to freedom of opinion and expression,

Mindful of the International Covenant on Civil and Political Rights which reaffirms, in article 19, the right of everyone to hold opinions without interference, as well as the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice,

Mindful also that the International Covenant on Civil and Political Rights also states that the exercise of the right to freedom of expression carries with it special duties and responsibilities and may therefore be subject to certain restrictions, but that these should be only such as are

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

provided by law and are necessary for the respect of the rights and reputations of others, or for the protection of national security or public order (ordre public) or of public health or morals, and that any propaganda for war or any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law,

Taking note of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information adopted by a group of experts meeting in South Africa on 1 October 1995,

Mindful of the need to ensure that unjustified invocation of national security to restrict the right to freedom of expression and information does not take place,

Noting that restrictions on the exercise of the right to freedom of opinion and expression could indicate a deterioration in the protection, respect for and enjoyment of other human rights and freedoms,

Considering that the effective promotion and protection of the human rights of persons who exercise the right to freedom of opinion and expression are of fundamental importance to the safeguarding of human dignity,

Reaffirming that education is an integral component of the full and effective participation of persons in a free society, in particular for the full enjoyment of the right to freedom of opinion and expression, and that the eradication of illiteracy is very important to the achievement of these goals and to the development of the human person,

Deeply concerned at numerous reports of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, against professionals in the field of information,

Taking note of the need to raise awareness about all aspects of the interrelationship between the use and availability of new media of communication, including modern telecommunications technology, and the right to freedom of expression and information, and of the efforts made in this regard in a number of international and regional forums, and mindful of provisions of relevant instruments,

Deeply concerned that for women there exists a gap between the right to freedom of opinion and expression, the right to information and the effective

enjoyment of those rights, and that this gap contributes to inadequate action by Governments in the integration of the human rights of women into the mainstream of their human rights activities,

1. Reaffirms its commitment to the principles contained in the International Covenant on Civil and Political Rights;

2. Welcomes the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/1998/40 and Add.1 and Add.2) and the comments and analysis contained therein;

3. Expresses its concern at the extensive occurrence of detention, long-term detention and extrajudicial killing, persecution and harassment, including through the abuse of legal provisions on criminal libel, of threats and acts of violence and of discrimination directed at persons who exercise the right to freedom of opinion and expression, including the right to seek, receive and impart information, and the intrinsically linked rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs, as well as at persons who seek to promote the rights affirmed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and seek to educate others about them or who defend those rights and freedoms, including legal professionals and others who represent persons exercising those rights;

4. Also expresses its concern at the number of cases in which the violations referred to in paragraph 3 of the present resolution are facilitated and aggravated by several factors such as abuse of states of emergency, exercise of the powers specific to states of emergency without formal declaration, and too vague a definition of offences against State security;

5. Calls for further progress towards release of persons detained for exercising the rights and freedoms referred to in paragraph 3, bearing in mind that each individual is entitled to the full enjoyment of all human rights and fundamental freedoms;

6. Invites once again the working groups, representatives and special rapporteurs of the Commission on Human Rights to pay attention, within the framework of their mandates, to the situation of persons detained, subjected to violence, ill-treated or discriminated against for having exercised the

right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other relevant human rights instruments;

7. Urges Governments to implement effective measures to eliminate the atmosphere of fear which often prevents women who have been victims of violence, either in domestic or community settings or as a result of armed conflict, from communicating freely on their own behalf or through intermediaries;

8. Appeals to all States:

(a) To ensure respect and support for the rights of all persons who exercise the right to freedom of opinion and expression, including the right to seek, receive and impart information, the rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs or who seek to promote and defend these rights and freedoms and, where any persons have been detained, subjected to violence or threats of violence or to harassment, including persecution and intimidation even after their release from detention, for exercising these rights as laid down in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other relevant human rights instruments, to take the appropriate steps to ensure the immediate cessation of these acts and to create conditions under which these acts may be less liable to occur;

(b) To ensure that persons seeking to exercise these rights and freedoms are not discriminated against, particularly in such areas as employment, housing and social services, and in this context to pay particular attention to the situation of women;

(c) To cooperate with and assist the Special Rapporteur in the performance of his tasks and to provide all information necessary in order to permit him fully to carry out his mandate;

9. Invites the Special Rapporteur, within the framework of his mandate:

(a) To draw the attention of the United Nations High Commissioner for Human Rights to those situations and cases regarding freedom of opinion and expression which are of particularly serious concern to the Special Rapporteur, and encourages the High Commissioner, within her mandate, to take

into account reports in this regard in the context of her activities to promote and protect human rights, with a view to preventing the occurrence and recurrence of human rights violations;

(b) In cooperation with the Special Rapporteur on violence against women, to continue to pay particular attention to the situation of women and the relationship between the effective promotion and protection of the right to freedom of opinion and expression and incidents of discrimination based on sex, creating obstacles for women with regard to their right to seek, receive and impart information, and to consider how these obstacles impede the ability of women to make informed choices in areas of particular importance to them, as well as in areas related to the general decision-making processes in the societies in which they live;

(c) To continue his efforts to cooperate with other special rapporteurs, special representatives, independent experts, working groups and other United Nations mechanisms and procedures in the field of human rights;

(d) To develop further his commentary on the right to seek and receive information and to expand on his observations and recommendations arising from communications;

(e) To continue to seek the views and comments of the Governments and others concerned in the elaboration of his report, as well as to continue to carry out his work with discretion and independence;

(f) To assess the advantages and challenges of new telecommunications technologies, including the Internet, on the exercise of the right to freedom of opinion and expression, including the right to seek, receive and impart information, taking into account the work undertaken by the Committee on the Elimination of Racial Discrimination on racism, racial discrimination, xenophobia and related intolerance;

10. Requests the Special Rapporteur to submit to the Commission at its fifty-fifth session a report covering activities relating to his mandate and decides to continue its consideration of this question at that session.